

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

DONALD LEON WRIGHT,

Case No. 3:22-cv-00305-MMD-CSD

v.

Plaintiff,

ORDER

WASHOE COUNTY DETENTION JAIL,
et al.,

Defendants.

Pro se Plaintiff Donald Leon Wright brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at the Washoe County Detention Facility. (ECF No. 1-1.) On October 3, 2022, the Court ordered Wright to update his address by November 3, 2022. (ECF No. 5.) That deadline expired without an updated address from Wright, and his mail from the Court is being returned as undeliverable. (ECF No. 6.)

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in the expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk

1 of prejudice to Defendants; (4) the public policy favoring disposition of cases on their
 2 merits; and (5) the availability of less drastic alternatives. See *In re Phenylpropanolamine*
 3 *Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

4 The first two factors, the public’s interest in expeditiously resolving this litigation
 5 and the Court’s interest in managing its docket, weigh in favor of dismissal of Wright’s
 6 claims. The third factor, risk of prejudice to Defendants, also weighs in favor of dismissal
 7 because a presumption of injury arises from the occurrence of unreasonable delay in filing
 8 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
 9 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
 10 cases on their merits—is greatly outweighed by the factors favoring dismissal.

11 The fifth factor requires the Court to consider whether less drastic alternatives can
 12 be used to correct the party’s failure that brought about the Court’s need to consider
 13 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
 14 that considering less drastic alternatives *before* the party has disobeyed a court order
 15 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
 16 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
 17 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court’s
 18 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
 19 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
 20 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
 21 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
 22 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed without
 23 the ability for the Court and Defendants to send Wright case-related documents, filings,
 24 and orders, the only alternative is to enter a second order setting another deadline. But
 25 without an updated address, the likelihood that the second order would even reach Wright
 26 is low, so issuing a second order will only delay the inevitable and further squander the
 27 Court’s finite resources. Setting another deadline is not a meaningful alternative given
 28 these circumstances. So the fifth factor favors dismissal.

Having thoroughly considered these dismissal factors, the Court finds that they weigh in favor of dismissal.

It is therefore ordered that this action is dismissed without prejudice based on Wright's failure to file an updated address in compliance with the Court's October 3, 2022, order.

It is further ordered that Wright's application to proceed *in forma pauperis* (ECF No. 1) denied as moot.

The Clerk of Court is directed to enter judgment accordingly and close this case. No other documents may be filed in this now-closed case. If Wright wishes to pursue his claims, he must file a complaint in a new case and provide the Court with his current address.

DATED THIS 7th Day of November 2022.


MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE